IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 3792 OF 2004

IN

CRIMINAL APPEAL NO.1055 OF 2004

Smt.Narmada Kamble .. Applicant

versus

The State of Maharashtra .. Respondents

...

Mr. P.R. Dave for the applicant.

Mr.D.P. Adsule, APP for the State.

CORAM : V.M. KANADE, J

DATED : 23rd September 2004.

P.C:-

1. Heard the learned counsel appearing on behalf of the applicant and the learned APP appearing on behalf of the State.

2. The applicant has filed this application for

bail. The applicant is convicted under the provisions of section 3, 4 5 and 6 of the Immoral Traffic (Prevention) Act and u/s.373 and 368 of the IPC and sentenced to undergo RI for 10 years. The learned counsel appearing on behalf of the applicant vehemently urged the the trial court itself had observed that there was several lapses in the prosecution case which lapses have been enumerated in paragraph no.59 of the judgement. He has submitted that there is a discrepancy regarding the age of the accused and though she has stated in her evidence that she is 14 years of age, in the FIR and other medical evidence, her age is shown more than 18 years. The procedure laid down under the PITA Act also has not been followed. The statement of the girl has been recorded at different dates which is evident from Exhibit-35 and 36. The learned counsel has taken me through the judgement and order of the trial Court. He has submitted that since there is a discrepancy regarding the age and the medical evidence suggest that the age of more than 18 years, provisions of section 373, 368 would not be applicable and so far as the offence is under the PITA Act is concerned, the maximum punishment is three years. It is submitted that under these circumstances, the applicant is

entitled to be released on bail.

3. The learned APP appearing on behalf of the State has submitted that the trial court has relied on the evidence of Renuka who was abducted and she has given a graphic account as to how she was sold and compelled to carry on prostitution. The learned APP has also stated that the report which is submitted by a Sr.Police Inspector states that there are three cases pending against the applicant being C.R. No.258/99, C.R. No.1328/01 and C.R.No.1595/03. The applicant has been convicted by the trial Court. The trial Court has given cogent reasons in support in support of the said finding by holding that the appellant has committed the said offences. There are also three other cases pending against her. Therefore, in my view, this not a fit case for grant of bail. Application for bail is rejected.

4. Hearing of the appeal is expedited. Liberty is given to the applicant to prepare a private paper book and to apply for a fixed date of hearing. If the appeal is not heard within a reasonable period of time, liberty is given to the applicant to apply for bail.

V.M.KANADE, J